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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,738	04/09/2004	Dietmar Baumann	10191/3762	1507
26646 7590 03/17/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER KING, BRADLEY T				
ART UNIT		PAPER NUMBER		
3683				
MAIL DATE		DELIVERY MODE		
03/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/821,738

Applicant(s)

BAUMANN ET AL.

Examiner

Bradley T. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7 and 9-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/17/2007 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-5, 7 and 9-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1 and 7 recite "for a detection of cornering, no energy recuperation is performed". This recitation is narrower than the original disclosure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 10-329681 in view of JP 11-205905.

JP 10-329681 discloses a braking method including: modifying the slowdown at the at least one wheel brake, or leaving an overall slowdown of the vehicle essentially constant, wherein the at least one suitable measure is performed as a function of at least one of a comparison of a recorded braking variable to at least one predefined threshold value, a driving situation, and an operating state of a vehicle component located in the vehicle during a braking procedure, and wherein the suitable measure includes unloading of the wheel brakes by a utilization of energy-absorbing components of the vehicle. Note in response to a noise detection signal, the hydraulic braking FL is reduced and the regenerative braking FG is increased to keep the total braking FALL constant. JP 10-329681 lacks the explicit disclosure of not performing energy recuperation for a detection of cornering. JP 11-205905 discloses a similar braking method and further teaches the elimination of regenerative braking (energy recuperation) when the vehicle needs spin inhibitory control (which is in response to a yaw/cornering detection) to improve steering. It would have been obvious to one of ordinary skill in the art at the time the invention was made to eliminate energy

recuperation in the system of JP 10-329681 as taught by JP 11-205905 to improve steering in the vehicle, thereby increasing driver control and vehicle stability.

Regarding claim 2, note [0058]. The rear wheels are unloaded and the regenerative force of the front wheels compensates.

Regarding claims 3 and 9, note FL is indicative of a braking power of the wheel brake.

Regarding claims 5 and 11, note the battery charge is considered. [0005].

Response to Arguments

Applicant's arguments filed 12/17/2007 have been fully considered but they are not persuasive.

Regarding the 112 1st rejections, on, the preclusion of energy recuperation during cornering is narrower than the text noted by Applicant. The first portion of text suggests increasing braking power at the rear axle only in straight line braking, but does not preclude all energy recuperation. Instead it appears only to preclude an increase in braking (redistribution) during cornering. The second portion of text describes the energy recovery as "predominantly" during straight-ahead driving, which is not the same as "for a detection of cornering, no energy recuperation is performed". It is maintained that the rejections are proper. It is maintained that persons skilled in the art would interpret the original disclosure as precluding an increase in regenerative braking in response to cornering and indicating a desire to have the majority of the energy

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recovery take place in straight-ahead driving. The concept of eliminating energy recovery in response to a detection of cornering does not exist in the original disclosure.

Applicant's remaining arguments are moot in view of the new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T. King whose telephone number is (571) 272-7117. The examiner can normally be reached on 11:00-7:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bradley T King
Primary Examiner
Art Unit 3683

BTK
/Bradley T King/
Primary Examiner, Art Unit 3683